



MINUTES
OCONEE COUNTY COUNCIL
Regular Meeting
August 18, 2009

MEMBERS, OCONEE COUNTY COUNCIL

Mr. Reg Dexter, District V, Council Chairman
Mr. Joel Thrift, District IV, Vice Chairman
Mr. Mario Suarez, District III, Chairman Pro Tem
Mr. Wayne McCall, District II

Oconee County Council met on Tuesday, August 18, 2009 at 7:00 PM in Council Chambers, 415 South Pine Street, Walhalla, SC with all Council Members, Kendra Brown, Interim Administrator, Thomas L. Martin County Attorney and Elizabeth G. Hulse, Clerk to Council present.

Press:

Pursuant to the Freedom of Information Act, notice of the meeting, date, time, place of meeting and agenda were posted on the bulletin board at the County Administrative Offices, 415 South Pine Street, Walhalla, SC, and the County Council website [www.oconeese.com/council]. In addition it was made available to the newspapers, radio stations, television stations and concerned citizens.

Members of the press present: Ray Chandler – Anderson Independent, Dick Mangrum – WGOG Radio & Carlos Galarza - Daily Journal.

Call to Order:

Mr. Dexter called the meeting to order at 7:00 p.m.

Pledge of Allegiance:

Mr. McCall led the pledge of allegiance to the United States Flag.

Minutes:

Mr. Thrift made a motion, seconded by Mr. McCall, approved 3 – 0 that the minutes from the August 4, 2009 regular meeting be adopted as printed.

Prior to the Public Comment Session, Chairman Dexter recognized members of Boy Scout Troup 45 who were present working on a citizenship merit badge.

Public Comment Session:

There was no Public Comment at this meeting.

Public Comment related to the Westminster Race Track Agenda Item:

Ms. Debbie Massey addressed Council in opposition to extending hours at the Westminster Race Track past 10 p.m. as stated in the noise ordinance [1998-02].

Mr. Don Massey addressed Council in opposition to extending hours at the Westminster Race Track past 10 p.m. and asked that the Track require exhaust systems on the vehicles to reduce noise.

Ms. Dot Holbrooks stated she agreed with Mr. & Mrs. Massey and stated she did not wish to speak; that her views had already been presented by other speakers.

Mr. Dave Vickery addressed Council regarding his support for the Race Track noting that it brought money into the community in difficult economic times.

Mr. Andy Hyde, Promoter for the Race Track, addressed Council noting increased revenue for Westminster. He stated they are running a family oriented business. Mr. Hyde also stated that he and his partner would look into implementing exhaust systems for vehicles racing on their track.

Mr. Jimmy Franklin, Promoter for the Race Track, addressed Council noting that they can require noise reduction on the vehicles and that they would work with the community on outstanding issues.

Ms. Kim O'Kelley stated she did not wish to speak; that her views had already been presented by other speakers.

Mr. Travis Watkins stated that he did not wish to speak; that his views had already been presented by other speakers.

Mr. Stacy Holbrooks, family member/property owner, addressed Council stated that the track has been in operation since the 1960's and that it has been in his family continuously.

Mr. Franklin Pearson addressed Council stating he lived near the track and noise was not an issue for him. He stated that the track is not hurting anyone and helping a lot of folks in the county during these difficult economic times.

Mr. Jeremy Ward addressed Council noting that he and his family have raced at the track for several generations and that he wanted Council to allow the racing to continue.

NOTE: Mr. Dexter noted that as many citizens were present that Council's discussion regarding issues related to the Race Track would be discussed at this point.

Discussion of issues related to the Westminster Race Track:

Mr. Thrift noted that the track is in his district and that he understands concerns from citizens on both sides of the argument. He noted that he has had discussions with Mr. Franklin & Mr. Hyde and that he appreciates the efforts they are making to reduce noise during the races. Mr. Thrift noted that the County has a noise ordinance and he asked the county attorney to comment on the existing ordinance[s] that might apply to the operation of the race track.

Mr. Tom Martin, County Attorney, addressed Council noting that there are two areas in the county's code that could apply: land use regulations and the noise ordinance. Regarding land use regulations not at present apply to the operation of the race track. The noise ordinance [1998-02] as written is not specific. He stated that he has been informed that the intent of one portion of

the ordinance was to cover the racetrack but no language is included regarding a previous Council's intent.

Sheriff James Singleton and Chief Terry Wilson, Oconee County Sheriff's Department, were present and addressed Council reviewing past noise complaints and the department's responses. Chief Wilson also noted that they had contacted the Chief Magistrate Judge for an opinion regarding prosecution of any tickets if issued. The Chief also noted that he has had conversations with both sides on the issue and that they seem to be cooperating with each other in order to resolve issues at the track.

Mr. Dexter asked Mr. Franklin and Mr. Hyde if they would begin requiring exhaust systems on vehicles racing at the track. Both gentlemen agreed to do so. Council commended those working together to resolve the issues within the community. Discussion followed.

Mr. Thrift made a motion to refer this issue to the Budget, Finance & Administration Committee for further study. The motion died for lack of a second.

Extended Public Comment Session:

Mr. Gary Littlefield addressed Council regarding several concerns related to the School District of Oconee County [SDOC]. He voiced concerns that Council is not properly providing oversight on the SDOC budget and expenditures.

Mr. Littlefield suggested that Council create a new Council Committee to meet either monthly or every other month with the SDOC Board to receive updates and status reports.

Mr. Littlefield also asked that Council revisit their meeting schedule as it conflicts with the SDOC meeting schedule. He asked that Council work with the SDOC Board to schedule meetings so that citizens don't have to run across the street to speak at and attend both meetings.

Consideration of the following Resolutions:

Resolution 2009-13:

Mr. Dexter read into the record Resolution 2009-13 'A RESOLUTION HONORING MORRIS GILLESPIE'. Sgt. Gillespie was unable to attend the presentation of the Resolution but Sheriff Singleton accepted the Resolution on behalf of Sgt. Gillespie and his family.

Mr. Suarez made a motion, seconded by Mr. Thrift, approved 4 – 0 to approve on first and final reading Resolution 2009-13.

Resolution 2009-14:

Mr. Dexter read into the record Resolution 2009-13 'A RESOLUTION OF THE OCONEE COUNTY COUNCIL AUTHORIZING A SPECIAL PRICE ON CERTAIN PRODUCT OF THE OCONEE COUNTY SOLID WASTE' which requests authorization for the Solid Waste Department to charge \$10.60 per scoop for mulch until such time as the economy revives. Mr. Swain Still, Solid Waste Director, addressed Council regarding the need to reduce the cost of mulch due to an over abundance and to be competitive with other retailers.

Mr. Suarez made a motion, seconded by Mr. Thrift, approved 4 – 0 to approve on first and final reading Resolution 2009-14.

MOTION TO AMEND AGENDA:

Mr. Thrift made a motion, seconded by Mr. McCall, approved 4 – 0 to amend the agenda to receive a report from Solid Waste regarding the recent upgrade project at the Transfer Station.

Solid Waste / Report on Upgrade at Transfer Station:

Mr. Swain Still, Solid Waste Director, addressed Council providing an update on the recent upgrade at the Transfer Station. He noted that his department worked closely with the Rock Quarry and that the project came in under budget and ahead of schedule due to the hard work of Quarry staff.

Public Hearing regarding the following Ordinance:

Mr. Dexter opened the Public Hearing regarding **Ordinance 2009-14** "AMENDMENT AND RESTATEMENT OF TRUST INDENTURE AND AMENDEMENT AND RESTATEMENT OF LOAN AGREEMENT RELATING TO \$77,000,000 OCONEE COUNTY, SOUTH CAROLINA POLLUTION CONTROL FACILITIES REVENUE REFUNDING BONDS, SERIES 1993 (DUKE POWER COMPANY PROJECT) (THE "BONDS") TO PROVIDE FOR CHANGE IN INTEREST RATE FROM VARIABEL RATE TO FIXED RATE, TO PROVIDE FOR APPOINTMENT OF WACHOVIA BANK, NATIONAL ASSOCIATION, AS REMARKETING AGENT, REMARKETING OF THE BONDS AND EXECUTION OF DOCUMENTS RELATING THERETO, AND TO PROVIDE FOR CHANGE IN COLLATERAL SUPPORT FOR THE BONDS BY DELIVERY OF FIRST AND REFUNDING MORTGAGE BONDS ISSUES BY DUKE ENERGY CAROLINAS, LLC." Documents related to Ordinance 2009-14 below for review:

- **AMENDED AND RESTATED LOAN AGREEMENT** BETWEEN OCONEE COUNTY, SC AND DUKE ENERGY CAROLINAS, LLC [Dated as of August 1, 2009]
- **SECOND AMENDED AND RESTATED TRUST INDENTURE** BETWEEN CONEE COUNTY, SC AND THE BANK OF NEW YORK MELLON TRUST COMPAY, N.A., as Trustee [Dates as of August 1, 2009]
- **PRELIMINARY REOFFERING CIRCULAR** (to be attached as Exhibit C to the Ordinance)
- **TRI-PARTY AGREEMENT** (to document the trustee succession)

Ms. Susie Cornelius addressed Council voicing concerns regarding several issues to include: [1] the county's liability related to these bonds, [2] Duke's assessed values, [3] previous modifications to the Duke bonds, and [4] the fixed interest rate for this bond.

Mr. Mike Burns, Bond Attorney with McNair Attorneys, addressed Council and Ms. Cornelius's questions as follows: [1] the county has no liability related to these bonds, [2] the South Carolina Department of Revenue assesses values not the county, however, as assessment relates to the bonds there would not be an impact to the best of his knowledge, [3] he stated he did not work on previous modifications to the bonds and can not address this issue, and [4] the rate will be determined when the bond sells [sale to take place between this date and September 1, 2009].

Mr. Dexter noted that the only two issues changing with the restructuring related to changing the interest rate from variable to fixed and the to appoint Wachovia as the remarketing agent. Lengthy discussion followed.

No other oral comments were made regarding this ordinance.

No written comments were submitted for inclusion with these minutes.

Mr. Dexter closed the public hearing regarding Ordinance 2009-14.

Consideration of the following Ordinances:

Ordinance 2009-14:

Mr. Suarez made a motion, seconded by Mr. Thrift, approved 4 – 0 to approve **Ordinance 2009-14** "AMENDMENT AND RESTATEMENT OF TRUST INDENTURE AND AMENDEMENT AND RESTATEMENT OF LOAN AGREEMENT RELATING TO \$77,000,000 OCONEE COUNTY, SOUTH CAROLINA POLLUTION CONTROL FACILITIES REVENUE REFUNDING BONDS, SERIES 1993 (DUKE POWER COMPANY PROJECT) (THE "BONDS")

TO PROVIDE FOR CHANGE IN INTEREST RATE FROM VARIABEL RATE TO FIXED RATE, TO PROVIDE FOR APPOINTMENT OF WACHOVIA BANK, NATIONAL ASSOCIATION, AS REMARKETING AGENT, REMARKETING OF THE BONDS AND EXECUTION OF DOCUMENTS RELATING THERETO, AND TO PROVIDE FOR CHANGE IN COLLATERAL SUPPORT FOR THE BONDS BY DELIVERY OF FIRST AND REFUNDING MORTGAGE BONDS ISSUES BY DUKE ENERGY CAROLINAS, LLC” on third and final reading.

Ordinance 2008-21:

Mr. Adam Artigliere, McNair Attorneys, Mr. Art Holbrooks, Planning Director, and Mr. Aaron Gadsby, County Planner / Certified Flood Plain Manager, addressed Council regarding recent revisions to Ordinance 2008-21 ‘AN ORDINANCE REPLACING ORDINANCE 2005-06, THE FLOOD DAMAGE PREVENTION ORDINANCE’. Mr. Holbrooks noted that FEMA is requiring that an updated ordinance and flood maps be approved prior to September 11, 2009. He noted that the staff was unhappy with the FEMA model ordinance and that Mr. Artigliere has made significant modifications and improvements [Versions 6] which are before Council tonight for consideration on second reading. Mr. Artigliere provided background regarding the model ordinance and work done to modify/update to meet FEMA & Oconee County needs. He also outlined the significant issues related to dropping out of the FEMA program to both the county related to funding and to citizens related to their ability to obtain mortgages. Lengthy discussion followed.

Mr. Thrift made a motion, seconded by Mr. Suarez to approve Ordinance 2008-21 on second reading.

Mr. McCall made a motion, seconded by Mr. Thrift, approved 4 – 0 to amend Ordinance 2008-21 as presented to incorporate version 6 as discussed.

Mr. Dexter called for a vote on the outstanding motion to approve Ordinance 2008-21 as amended on second reading. The motion carried unanimously.

Ordinance 2009-16:

Mr. Suarez made a motion, seconded by Mr. Thrift, approved 4 – 0 to approve **Ordinance 2009-16** ‘AN AN ORDINANCE TO AMEND CHAPTER 32 OF THE OCONEE COUNTY CODE OF ORDINANCES IN CERTAIN LIMITED REGARDS AND PARTICULARS, ONLY, AS TO THE ESTABLISHMENT OF UNIFIED PERFORMANCE STANDARDS REGULATING CERTAIN BUILDINGS AND STRUCTURES GREATER THAN SIXTY-FIVE FEET (65’) IN HEIGHT PROPOSED FOR ANY LOCATION IN THE UNINCORPORATED AREAS OF OCONEE COUNTY, AND OTHER MATTERS RELATING THERETO” on second reading.

Ordinance 2009-17:

Mr. Suarez made a motion, seconded by Mr. Thrift, approved 4 – 0 to approve **Ordinance 2009-17** “AN ORDINANCE TO AMEND THE FISCAL YEAR 2009-2010 BUDGET APPROPRIATES ORDINANCE FOR OCONEE COUNTY” on second reading.

Ordinance 2009-18:

Mr. Thrift made a motion, seconded by Mr. Suarez, approved 4 – 0 to approve **Ordinance 2009-18** ‘AN ORDINANCE AUTHORIZING THE TRANSFER OF AN EASEMENT FOR INGRESS, EGRESS, AND UNTILITIES ACROSS CERTINA OCONEE COUNTY REAL PROPERTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT RELATED TO THE SAME; AND OTHER MATTERS RELATED THERETO” on second reading.

Ordinance 2009-19:

Mr. Thrift made a motion, seconded by Mr. McCall, approved 4 – 0 to approve **Ordinance 2009-19** “AN ORDINANCE AUTHORIZING THE TRANSFER OF INTEREST IN CERTAIN OCONEE COUNTY REAL PROPERTY AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ACCESS EASEMENT AGREEMENT RELATED TO THE SAME; AND OTHER MATTERS RELATED THERETO” on second reading.

Items for Consideration by Council:

Approval of Agreement / Georgia Power re: Enforcement of Building Codes for Permitted Structures located on Lake Yonah:

Mr. Art Holbrooks and Mr. Channon Chambers, Building Codes, addressed Council regarding issues related to the enforcement of building codes on Lake Yonah. Electrical power is provided from the Georgia side by the property owner, Georgia Power. In order to move ahead with permitting activity mandated by adopted codes, it is necessary to insure that the County has the ability to regulate access to the utilities required by the new structures. It is the staff’s recommendation that the Council authorize the County Attorney to negotiate the necessary agreement with Georgia Power whereby permits issued on Lake Yonah would by agreement honor Oconee County’s building codes.

Mr. Suarez made a motion, seconded by Mr. Thrift, approved 4 – 0 to authorize the County Attorney to negotiate an agreement with Georgia Power as outlined above and in the agenda item summary.

Road Department / State Contract / Bandit Model 1390XP Drum Style Brush Chipper / \$42,557.41:

Mr. Thrift made a motion, seconded by Mr. McCall, approved 4 – 0 to authorize the purchase of one Bandit model 1490XP drum style brush chipper for the Road Department in the amount of \$42,557.41 from Ditch Witch of the Carolina’s of Ladson, SC, per State Contract # 08-S7683-A13727.

Council Committee Reports:

There were no Committee Reports presented at this meeting.

Commission / Board Reports to Council:

Planning Commission:

Mr. Art Holbrooks, Planning Director, made a presentation to Council on behalf of the Planning Commission [handout provided and filed with these minutes] outlining their membership, structure & accomplishments and goals. Mr. Holbrooks recognized all members of the Commission present. Mr. Dexter thanked Mr. Holbrooks and the Commission for their report.

Board & Commission Appointments:

There we no Board or Commission appointments at this meeting.

Administrator's Report:

County Attorney, Thomas L. Martin, recognized as "Best Attorney":

Ms. Brown noted for those present that Mr. Martin was named one of 43 attorneys from McNair Law Firm, PA listed in the 2010 edition of Best Lawyers, the oldest and most respected peer review publication in the legal profession. Notice of this honor was in the August 5, 2009 Daily Journal newspaper and a copy of the article will be filed with these minutes.

Jail Advisory Committee Meeting Update:

Ms. Brown notified Council that the Committee met on Friday, August 14, 2009 and discussed the site evaluation. She noted that a full presentation by the Committee will be scheduled for a future Council meeting.

MOTION TO AMEND AGENDA;

Ms. Brown asked for a motion to amend the agenda to discuss a referral of a possible fire station at the Oconee County Airport to a Council Committee.

Mr. McCall made a motion, seconded by Mr. Thrift, approved 4 – 0 to amend the agenda to discuss referral of a possible fire station at the Oconee County Airport to a Council Committee.

Possible Fire Station at the Oconee County Airport:

Ms. McCall made a motion, seconded by Mr. Thrift, approved 4 – 0 to forward discussion of a possible fire station at the Oconee County Airport to the Law Enforcement, Public Safety, Health & Welfare Committee.

Old Business:

Recommendation of final Community Leader to participate in the selection of the new Administrator:

Mr. McCall recommended: **Mr. Gregorie Nowell**

Blue Ribbon Panel to Study/Report to Council regarding Water & Sewer in Oconee County:

Mr. Dexter opened the floor for each Council member to appoint two members to the Blue Ribbon Panel of citizens [two appointees for each district] to study water and sewer issues [utilizing current studies and other information] with emphasis on the I85 corridor and the Golden Corner Commerce Park:

Mr. McCall appointed:	Ms. Marty Jennings & Mr. Robbie Lee
Mr. Suarez appointed:	Mr. Frank Holloman & Mr. Neal Workman
Mr. Dexter appointed:	Mr. Richard Hughes & Mr. Ryan Honea
Mr. Thrift appointed:	Mr. Greg Dietterick & Mr. Larry Linsin

Mr. Suarez made a motion, seconded by Mr. McCall, approved 4 – 0 to ratify the appointments as outlined above.

New Business:

Donation of Rock to the Westminster Depot Renovation Committee:

Mr. Thrift made a motion, seconded by Mr. McCall, approved 4 – 0 to authorize up to \$200 to be paid from Council Contingency to provide rocks to the Westminster Depot Renovation Committee.

County Attorney, Thomas L. Martin, recognized as “Best Attorney”:

Mr. Dexter noted that he had also planned to notify the public that Mr. Martin was named one of 43 attorneys from McNair Law Firm, PA listed in the 2010 edition of Best Lawyers. On behalf of Council, Mr. Dexter commended Mr. Martin stating that he hoped that the citizen appreciate as much as Council does the excellent work done by Mr. Martin and his firm.

Mr. Martin thanked Council and Ms. Brown for the recognition, noting that he has worked with 35 of the 46 counties and many municipalities and that he has never enjoyed more working with any group of dedicated, professional, positive people as in Oconee County. Mr. Martin thanked Council for the opportunity to work with the County.

Executive Session:

Mr. Thrift made a motion, seconded by Mr. McCall, approved 4 – 0 to enter into Executive Session for the purpose of receiving legal advice and discussing a contractual matter.

Council entered Executive Session at 8:58 p.m.

Council returned from Executive Session at 10:09 p.m. on a motion by Mr. Thrift, seconded by Mr. Suarez, approved 4 – 0.

Mr. Dexter stated that no action was taken in Executive Session.

Mr. Thrift made a motion, seconded by Mr. Suarez, approved 4 – 0 to authorize staff to negotiate contractual matters discussed in Executive Session.

Meeting Announcements:

Mr. Dexter announced the following:

The Oconee County Council will host a swearing in ceremony to be conducted by the Honorable Timothy M. Cain for the newly elected District 1 Council representative on Wednesday, August 26, 2009 at 5:30 p.m. in the Council Chambers at the Oconee Administrative Offices, 415 South Pine Street, Walhalla, SC.

The Oconee County Council Planning & Economic Development Committee will meet on Thursday, August 20, 2009 at 5:30 p.m. in Council Chambers. The newspaper announced 6:00 p.m. in error.

Adjourn:

Mr. Thrift made a motion, seconded by Mr. McCall, approved unanimously to adjourn the meeting at 10:17 p.m.

Respectfully Submitted:

Elizabeth G. Hulse
Clerk to Council